

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DANIEL C. WALLER,

Plaintiff,

v.

Civil Action No. 15-13305
Honorable David M. Lawson
Magistrate Judge David R. Grand

TIA VON MOORE-PATTON, RAMONA
VINCENT, QUANTA MILLEDGE-BENJAMIN,
MARIA ROSADA, CRINSHA HALL, ANGELA
CALLOWAY, AND ROBERT CAIN,

Defendants.

**REPORT AND RECOMMENDATION TO
DENY DEFENDANTS' MOTION TO DISMISS [56]**

Before the Court is a motion to dismiss filed by Defendants on August 1, 2016. [56]. The basis of the motion is that Plaintiff Daniel Waller, Jr. ("Waller") failed to produce a copy of certain recorded deposition testimony, which had been requested by Defendants, even after being ordered to do so by this Court. [*Id.*]. Specifically, the Court entered an order on July 21, 2016, in which it extended the time for the filing of dispositive motions (based in part on Waller's failure to provide copies of the recorded deposition testimony) and ordered Waller to provide these recordings to Defendants "forthwith." [53 at 2]. When Waller failed to do so – allegedly he "ignored defense counsel, turned around and walked away" when she again requested a copy of the recorded testimony on July 26, 2016 [56 at 4] – Defendants filed the instant motion to dismiss.

On August 17, 2016, the Court conducted a telephonic conference with Waller and defense counsel, during which it was agreed that the issues raised in Defendants' motion to dismiss would be resolved by Waller providing a copy of the recorded deposition testimony

before the close of business on Friday, August 19, 2016. [8/17/16 Dkt. Entry]. Subsequently, Waller filed a certificate of service indicating that he had complied with that order. [59].

In light of the foregoing, **IT IS RECOMMENDED** that Defendants' motion to dismiss [56] be **DENIED**.

Dated: August 24, 2016
Ann Arbor, Michigan

s/David R. Grand
DAVID R. GRAND
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

The parties to this action may object to and seek review of this Report and Recommendation, but are required to act within fourteen (14) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Secretary of HHS*, 932 F.2d 505, 508 (6th Cir.1991); *United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir.1981). The filing of objections which raise some issues, but fail to raise others with specificity, will not preserve all the objections a party might have to this Report and Recommendation. *Willis v. Secretary of HHS*, 931 F.2d 390, 401 (6th Cir.1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir.1987). Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this magistrate judge. A party may respond to another party's objections within 14 days after being served with a copy. *See* Fed. R. Civ. P. 72(b)(2); 28 U.S.C. §636(b)(1). Any such response should be concise, and should address specifically, and in the same order raised, each issue presented in the objections.

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class

U.S. mail addresses disclosed on the Notice of Electronic Filing on August 24, 2016.

s/Eddrey O. Butts
EDDREY O. BUTTS
Case Manager